IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 262 of 2006

NOOR MOHD.
V/S
JAI PRAKASH & ORS.

Mr. SAJJAN SINGH, for the appellant / petitioner

Date of Order : 1.8.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

Both the learned Courts below have concurrently found, after appreciating the evidence of the plaintiff, and in conjunction with the evidence of the defendant, that it is sufficiently established that the suit shop has not been used for a period of more than six months before filing of the suit within the meaning of Section 13(1)(j) of the Rajasthan Premises (Control of Rent and Eviction) Act. Learned counsel read to me the evidence of various witnesses, and even after re-appreciating them, I am at one with the findings of the learned Courts below.

The appeal thus, does not involve any substantial question of law. The same is, therefore, dismissed summarily.

At the request of the learned counsel for the appellant, the appellant is given one year's time to vacate the suit premises on the condition that the defendant gives

an undertaking before the learned trial court within one month from today that on or before the expiry of the above period, he will peacefully hand over the vacant possession of the suit premises to the plaintiff and that during this period, he will not, in any manner, transfer the possession of the suit premises to anybody. Likewise, the entire decretal amount, so also all arrears of rent, if any, shall be deposited by the appellant in the trial court within one month from today and shall further continue to deposit amount equal to the monthly rent by way of damages for use and occupation by 15th of each succeeding month, till the actual delivery of possession. In case the appellant fails to comply with any of the above conditions, the respondent will become automatically entitled to execute the decree forthwith.

(N P GUPTA),J.

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